

Special Meeting of the Town Council held on Monday, March 30, 2009 at 6:00 P.M. in the Media Center, Burrillville High School, 425 East Avenue, Harrisville, RI, for and within the Town of Burrillville. Formal action may be taken.

PRESENT: Council President Nancy F. Binns, Councilors Wallace F. Lees, Margaret L. Dudley, Kevin D. Heitke, John M. Karmozyn Jr. and Norman C. Mainville

MEMBERS ABSENT: Councilor Kevin M. Blais

NATURE OF BUSINESS: The Town Council of the Town of Burrillville, Rhode Island, acting in its capacity as judge of qualification of members of the Town Council, as provided in §3.07 of the Burrillville Town Charter, will hear evidence to consider and adjudicate alleged violations of the Burrillville Town Charter by Town Councilor Kevin M. Blais, specifically Article XIX, §19.10, Non-interference by Town Council, which states: Except for the purpose of inquiries and investigations under subsection 3.14 (I), the Town Council or its members shall deal with town officers and employees who are subject to the direction and supervision of the Manager, solely through the Manager, and neither the Town Council nor its members shall give orders to any such officer or employee, either publicly or privately.

Note: Councilor Margaret L. Dudley recused herself from participation

in the hearing and left the table.

1. Opening Statements

Opening statement by J. Richard Ratcliffe, Esq.

Peter J. Petrarca, Esq. did not make an opening statement.

Mr. Petrarca asked Councilors Norman C. Mainville, John M. Karmozyn, Jr., Council President Nancy F. Binns, and Councilor Wallace F. Lees to recuse themselves from the hearing. Timothy F. Kane, Town Solicitor, reviewed the Councilors responsibilities. There were no further recusals.

2. Presentation of Evidence Against Councilor Blais

Testimony by: Louise R. Phaneuf, Burrillville Town Clerk; Michael C. Wood, Burrillville Town Manager; Richard A. Bernardo, P.E., Burrillville Director of Public Works & Engineering Services; Barry Hopkins, Burrillville Construction Foreman; Ronald B. Scotland, Burrillville Department of Public Works Driver/ Laborer/Operator; Alan Russell, Burrillville Department of Public Works Driver/Laborer/Operator; John P. Mainville, Burrillville Finance Director.

Note: There was a recess from 8:10 to 8:20 P.M.

3. Presentation of Evidence by Councilor Blais or his Attorney: None

4. Rebuttal Evidence: None

5. Closing Arguments

Closing by J. Richard Ratcliffe, Esq.

Closing by Peter J. Petrarca, Esq.

6. Request for Executive Session from Timothy F. Kane, Town Solicitor, pursuant to the Rhode Island Open Meetings Act [§42-46-5(a)(4)] for consideration /deliberation relative to investigative proceedings regarding allegations of civil misconduct relative to complaints of alleged Charter violations against Councilor Kevin M. Blais.

No action was taken on the request for executive session.

Councilor Kevin D. Heitke said that his understanding of the testimony was that there was ample, credible evidence upon which this Council could rely that there has been a violation of §19.10 of the Burrillville Town Charter on September 23, 2008 by Councilor Blais.

MOTION to recess to consult with the Town Solicitor in forming the

motion.

Motion by Councilor Kevin D. Heitke. Seconded by Councilor Norman C. Mainville. The motion carried, five in favor, one recusal, one absent. Voting in favor were Council President Nancy F. Binns and Councilors Wallace F. Lees, Kevin D. Heike, John M. Karmozyn, Jr. and Norman C. Mainville. Councilor Margaret L. Dudley recused. Councilor Kevin M. Blais was absent.

Note: There was a recess from 8:30 to 8:53 P.M.

Upon returning from recess, Timothy F. Kane, Town Solicitor, reviewed the procedure.

7. Announcement of Decision

I. Having listened carefully to the testimony of the witnesses, including Messrs. Bernardo, Hopkins, Scotland and Russell, under both direct examination and cross-examination, I find their testimony both credible and substantially consistent. I find any inconsistencies in their testimony to be minor in nature and to be expected to what individual witnesses may have perceived as a minor detail. I have reviewed the exhibits put into evidence, including (1) the Map; (2) statement of Mr. Scotland; and (3) letter from the Town Clerk of November 26, 2006.

1. I find as credible Mr. Bernardo's testimony that Mr. Blais stated that 'Mike Wood works for him and you are obligated to answer my questions when conducting an investigation as a councilman.' Mr. Blais also ordered Mr. Bernardo to keep Foreman Hopkins 'under control.'

2. I also find as credible Mr. Hopkins' statement that Mr. Blais stated that 'we work for him and we had to answer his questions because as a council person he was running an investigation.' There was also testimony depicting Mr. Blais being 'very aggressive' and 'very loud'. Both of these statements I find to be credible.

3. I also find Mr. Scotland's testimony that the incident in question lasted 5-10 minutes and appeared to be a heated conversation; I find that to be credible.

4. The testimony of Mr. Alan Russell I find to be credible, that Mr. Blais 'marched up to Mr. Hopkins and was leaning forward in a threatening manner.' I find that testimony to be credible.

In summary, I find that substantial, reliable evidence exists to support the conclusion that at approximately 7:50 A.M. on September 23, 2008, Mr. Blais approached the DPW Director, Richard Bernardo, and DPW Foreman, Barry Hopkins, while they were engaged in their duties on a job site on Tarkiln Road and that Mr. Blais addressed Mr. Bernardo and Mr. Hopkins in a belligerent manner, invoked his position as a Town Council member and attempted to exert authority over them on that basis.

Madame Chair, I would make a motion at this time that this Council adopt these findings of fact that came from this proceeding.

Motion by Councilor Kevin D. Heitke. Seconded by Councilor Norman C. Mainville. The motion carried, five in favor, one recusal, one absent. Voting in favor were Council President Nancy F. Binns and Councilors Wallace F. Lees, Kevin D. Heike, John M. Karmozyn, Jr. and Norman C. Mainville. Councilor Margaret L. Dudley recused. Councilor Kevin M. Blais was absent.

II. Madame Chair, based upon that vote, I believe the evidence put forth tonight constitutes clear and convincing evidence that Mr. Blais dealt directly with Mr. Bernardo and Mr. Hopkins and further ordered Mr. Bernardo to answer his questions and based on these findings, I make a motion that Councilor Kevin Blais be found in violation of §19.10 of the Burrillville Town Charter, which states: §19.10, Non-interference by Town Council. Except for the purpose of inquiries and investigations under subsection 3.14 (I), the Town Council or its members shall deal with town officers and employees who are subject to the direction and supervision of the Manager, solely through the Manager, and neither the Town Council nor its members shall give orders to any such officer or employee, either publicly or privately.

Motion by Councilor Kevin D. Heitke. Seconded by Councilor Wallace F. Lees. The motion carried, five in favor, one recusal, one absent.

Voting in favor were Council President Nancy F. Binns and Councilors Wallace F. Lees, Kevin D. Heike, John M. Karmozyn, Jr. and Norman C. Mainville. Councilor Margaret L. Dudley recused. Councilor Kevin M. Blais was absent.

III. Madame Chair, based upon that second vote, I make a motion that the Council finds that as a result of the finding, Mr. Kevin Blais has violated §19.10 of the Town Charter that he has forfeited his office, pursuant to the mandate of §3.04, which states that a councilor shall forfeit his or her office if she violates an express provision of this Charter.

Motion by Councilor Kevin D. Heitke. Seconded by Councilor Norman C. Mainville. The motion carried, five in favor, one recusal, one absent. Voting in favor were Council President Nancy F. Binns and Councilors Wallace F. Lees, Kevin D. Heike, John M. Karmozyn, Jr. and Norman C. Mainville. Councilor Margaret L. Dudley recused. Councilor Kevin M. Blais was absent.

8. MOTION to adjourn at 9:00 P.M.

Motion by Councilor Norman C. Mainville. Seconded by Councilor John M. Karmozyn, Jr. The motion carried, five in favor, one recusal, one absent. Voting in favor were Council President Nancy F. Binns and Councilors Wallace F. Lees, Kevin D. Heike, John M. Karmozyn, Jr. and Norman C. Mainville. Councilor Margaret L. Dudley recused. Councilor Kevin M. Blais was absent.

The hearing was recorded. The recording is on file with the record of the hearing.

Louise R. Phaneuf, Town Clerk